

Remarks

Applicants and the undersigned would like to thank the Examiner for his efforts in the examination of this application, and for the extreme courtesy and helpfulness exhibited during the above-mentioned Examiner Interview. Reconsideration is respectfully requested.

I. Rejection of Claims 3 and 4 under 35 USC 102(b)

The Examiner had rejected Claims 3 and 4 under 35 USC 102(b) as being anticipated by Bille et al. '586, but agreed during the Examiner Interview that Claims 3 and 4 would be allowable over the cited art.

As stated previously, Claim 3 recites the step of "sequencing the plurality of pulses so that a plume associated with a specific pulse does not substantially interfere with a pulse subsequent to the specific pulse." Claim 4 recites the step of "spacing each pulse in the series of pulses a distance sufficient so that a plume associated with a previous pulse does not substantially interfere with a pulse subsequent to the previous pulse."

Bille teaches that "[a]lthough the duration **14** of each emission **10** is very short and will have minimal effect on peripheral tissue, an apparently random firing order is established in order to insure the peripheral affects [sic] of the laser beam on tissue area **18** are, in fact, minimized." [col. 5, lines 42-44]

Claim 3 recites the step of "sequencing the plurality of pulses so that a plume associated with a specific pulse does not substantially interfere with a pulse subsequent to the specific pulse." Claim 4 recites the step of "spacing each pulse in the series of pulses a distance sufficient so that a plume associated with a previous pulse does not substantially interfere with a pulse subsequent to the previous pulse." Bille '586 does not teach such an avoidance of a plume, since it is believed, as pointed out by the Examiner, that in the plasma regime of Bille, there is no plume effect. Therefore, such a "sequencing"



or "spacing" as recited in Claims 3 and 4, respectively, since Bille teaches an "apparently random firing order".

Therefore, it is respectfully believed that Claims 3 and 4 are not anticipated by Bille and patentably distinguish thereover.

II. Double Patenting Rejection

The Examiner has again rejected Claims 3 and 4 under the judicially created doctrine of obviousness-type double patenting.

A terminal disclaimer and the fee therefor were already submitted with the previous response filed on August 20, 2002, to obviate this rejection. Copies of the Power of Attorney and Revocation of Prior Powers, a copy of the postcard filed with the case, and a copy of the Express Mail receipt are enclosed herewith. The Examiner, in a telephone conference on April 23, 2003, correctly noted that the Registration Number of the undersigned, who was named in the Revocation, was typed incorrectly. Therefore, a new Terminal Disclaimer, signed by Carl Napolitano, and an Associate Power of Attorney naming the undersigned, are enclosed herewith. The fee for the Terminal Disclaimer has already been paid; however, if additional fees are needed, the Commissioner is authorized to charge Deposit Account 01-0484 therefor.

Conclusions

Applicants respectfully submit that the above amendments and remarks place this application in a condition for allowance, and reconsideration and passage to issue are respectfully solicited. The Applicants and the undersigned would like to again thank the Examiner for his efforts in the examination of this application and for reconsideration of the claims as amended in light of the arguments presented. If the further prosecution of the application can be facilitated through telephone interview between the Examiner and the



undersigned, the Examiner is requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,



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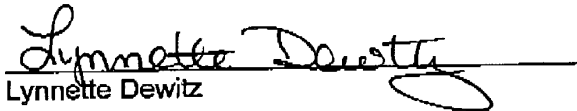
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing is being delivered by facsimile transmission to Examiner David M. Shay, Group Art Unit 3739, fax number 1-703-746-3377, this 24th day of April, 2003.


Lynnette Dewitz